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AMENDED IN SENATE AUGUST 24, 2006  
AMENDED IN SENATE AUGUST 22, 2006  
AMENDED IN SENATE AUGUST 7, 2006  
AMENDED IN ASSEMBLY MAY 26, 2006  
AMENDED IN ASSEMBLY MARCH 15, 2006  
AMENDED IN ASSEMBLY FEBRUARY 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1849**

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**Introduced by Assembly Member Leslie**  
**(Coauthors: Assembly Members Benoit, Cogdill, Cohn, Daucher,**  
**DeVore, Emmerson, Garcia, Harman, Haynes, Shirley Horton,**  
**Houston, Huff, Leno, Maze, Mountjoy, Parra, Strickland, Tran,**  
**Vargas, and Wyland)**  
(Coauthors: Senators Alquist and Cox)

January 12, 2006

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An act to amend Section 290.46 of the Penal Code, relating to sex offenders, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1849, as amended, Leslie. Sex offenders.

Existing law requires the Department of Justice to make information concerning certain persons who are required to register as sex

offenders available to the public via an Internet Web site, including the offender's criminal history.

This bill would also require that on or before July 1, 2010, the year of the conviction of the offender's last sexual offense, the year of release from incarceration for that offense, and whether he or she was subsequently incarcerated for any other felony, be posted on the Internet Web site, as specified. This bill would also require any state ~~or local~~ facility that releases a sex offender to provide the year of conviction and year of release for his or her most recent offense requiring registration as a sex offender to the department, or that releases a person who is required to register as a sex offender from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register to advise the department, as specified, *if that information is readily accessible to the facility.*

~~Because this bill would require local officials to perform additional duties, this bill would impose a state-mandated local program.~~

This bill would incorporate additional changes in Section 290.46 of the Penal Code proposed by AB 2712 and SB 1128 contingent upon the prior enactment of one or both of those bills.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

This bill would provide that it shall only become operative if SB 1128 is enacted.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~<sup>no</sup>.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 290.46 of the Penal Code is amended to  
2 read:

290.46. (a) (1) On or before the dates specified in this section, the Department of Justice shall make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in this section. The department shall update the Internet Web site on an ongoing basis. All information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the Internet Web site. The name or address of the person's employer and the listed person's criminal history other than the specific crimes for which the person is required to register shall not be included on the Internet Web site. The Internet Web site shall be translated into languages other than English as determined by the department.

(2) (A) On or before July 1, 2010, the Department of Justice shall make available to the public, via an Internet Web site as specified in this section, as to any person described in subdivisions (b), (c), or (d), the following information:

(i) The year of conviction of his or her most recent offense requiring registration pursuant to Section 290.

(ii) The year he or she was released from incarceration for that offense.

(iii) Whether he or she was subsequently incarcerated for any other felony, if that fact is reported to the department. If the department has no information about a subsequent incarceration for any felony, that fact shall be noted on the Internet Web site.

However, no year of conviction shall be made available to the public unless the department also is able to make available the corresponding year of release of incarceration for that offense, and the required notation regarding any subsequent felony.

(B) (i) Any state—~~or local~~ facility that releases from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall, within 30 days of release, provide the year of conviction and year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department, *if that information is readily accessible to the facility*.

(ii) Any state—~~or local~~ facility that releases a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to

1 the offense for which he or she is required to register shall,  
2 within 30 days of release, advise the Department of Justice of  
3 that fact, *if that information is readily accessible to the facility.*

4 (iii) Any state-~~or local~~ facility that, prior to January 1, 2007,  
5 released from incarceration a person who was incarcerated  
6 because of a crime for which he or she is required to register as a  
7 sex offender pursuant to Section 290 shall provide the year of  
8 conviction and year of release for his or her most recent offense  
9 requiring registration to the Department of Justice in a manner  
10 and format approved by the department, *if that information is*  
11 *readily accessible to the facility. The information provided by the*  
12 *Department of Corrections and Rehabilitation shall be limited to*  
13 *information that is currently maintained in an electronic format.*  
14 *If the information is not currently maintained in an electronic*  
15 *format, there shall be a notation that the event occurred prior to*  
16 *1978.*

17 (iv) Any state-~~or local~~ facility that, prior to January 1, 2007,  
18 released a person who is required to register pursuant to Section  
19 290 from incarceration whose incarceration was for a felony  
20 committed subsequently to the offense for which he or she is  
21 required to register shall advise the Department of Justice of that  
22 fact in a manner and format approved by the department, *if that*  
23 *information is readily accessible to the facility. The information*  
24 *provided by the Department of Corrections and Rehabilitation*  
25 *shall be limited to information that is currently maintained in an*  
26 *electronic format. If the information is not currently maintained*  
27 *in an electronic format, there shall be a notation that the event*  
28 *occurred prior to 1978.*

29 (b) (1) On or before July 1, 2005, with respect to a person  
30 who has been convicted of the commission or the attempted  
31 commission of any of the offenses listed in, or who is described  
32 in, paragraph (2), the Department of Justice shall make available  
33 to the public via the Internet Web site his or her name and known  
34 aliases, a photograph, a physical description, including gender  
35 and race, date of birth, criminal history, the address at which the  
36 person resides, and any other information that the Department of  
37 Justice deems relevant, but not the information excluded pursuant  
38 to subdivision (a).

39 (2) This subdivision shall apply to the following offenses and  
40 offenders:

1 (A) Section 207 committed with intent to violate Section 261,  
2 286, 288, 288a, or 289.

3 (B) Section 209 committed with intent to violate Section 261,  
4 286, 288, 288a, or 289.

5 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

6 (D) Section 264.1.

7 (E) Section 269.

8 (F) Subdivision (c) or (d) of Section 286.

9 (G) Subdivision (a), (b), or (c) of Section 288, provided that  
10 the offense is a felony.

11 (H) Subdivision (c) or (d) of Section 288a.

12 (I) Section 288.5.

13 (J) Subdivision (a) or (j) of Section 289.

14 (K) Any person who has ever been adjudicated a sexually  
15 violent predator as defined in Section 6600 of the Welfare and  
16 Institutions Code.

17 (c) (1) On or before July 1, 2005, with respect to a person  
18 who has been convicted of the commission or the attempted  
19 commission of any of the offenses listed in paragraph (2), the  
20 Department of Justice shall make available to the public via the  
21 Internet Web site his or her name and known aliases, a  
22 photograph, a physical description, including gender and race,  
23 date of birth, criminal history, the community of residence and  
24 ZIP Code in which the person resides or the county in which the  
25 person is registered as a transient, and any other information that  
26 the Department of Justice deems relevant, but not the information  
27 excluded pursuant to subdivision (a). On or before July 1, 2006,  
28 the Department of Justice shall determine whether any person  
29 convicted of an offense listed in paragraph (2) also has one or  
30 more prior or subsequent convictions of an offense listed in  
31 paragraph (2) of subdivision (a) of Section 290, and, for those  
32 persons, the Department of Justice shall make available to the  
33 public via the Internet Web site the address at which the person  
34 resides. However, the address at which the person resides shall  
35 not be disclosed until a determination is made that the person is,  
36 by virtue of his or her additional prior or subsequent conviction  
37 of an offense listed in paragraph (2) of subdivision (a) of Section  
38 290, subject to this subdivision.

39 (2) This subdivision shall apply to the following offenses:

40 (A) Section 220, except assault to commit mayhem.

1 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

2 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
3 (i), of Section 286.

4 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
5 (i), of Section 288a.

6 (E) Subdivision (b), (d), (e), or (i) of Section 289.

7 (d) (1) On or before July 1, 2005, with respect to a person  
8 who has been convicted of the commission or the attempted  
9 commission of any of the offenses listed in, or who is described  
10 in, this subdivision, the Department of Justice shall make  
11 available to the public via the Internet Web site his or her name  
12 and known aliases, a photograph, a physical description,  
13 including gender and race, date of birth, criminal history, the  
14 community of residence and ZIP Code in which the person  
15 resides or the county in which the person is registered as a  
16 transient, and any other information that the Department of  
17 Justice deems relevant, but not the information excluded pursuant  
18 to subdivision (a) or the address at which the person resides.

19 (2) This subdivision shall apply to the following offenses and  
20 offenders:

21 (A) Subdivision (a) of Section 243.4, provided that the offense  
22 is a felony.

23 (B) Section 266, provided that the offense is a felony.

24 (C) Section 266c, provided that the offense is a felony.

25 (D) Section 266j.

26 (E) Section 267.

27 (F) Subdivision (c) of Section 288, provided that the offense is  
28 a misdemeanor.

29 (G) Section 647.6.

30 (H) Any person required to register pursuant to Section 290  
31 based upon an out-of-state conviction, unless that person is  
32 excluded from the Internet Web site pursuant to subdivision (e).  
33 However, if the Department of Justice has determined that the  
34 out-of-state crime, if committed or attempted in this state, would  
35 have been punishable in this state as a crime described in  
36 subparagraph (A) of paragraph (2) of subdivision (a) of Section  
37 290, the person shall be placed on the Internet Web site as  
38 provided in subdivision (b) or (c), as applicable to the crime.

39 (e) (1) If a person has been convicted of the commission or  
40 the attempted commission of any of the offenses listed in this

1 subdivision, and he or she has been convicted of no other offense  
2 listed in subdivision (b), (c), or (d) other than those listed in this  
3 subdivision, that person may file an application with the  
4 Department of Justice, on a form approved by the department, for  
5 exclusion from the Internet Web site. If the department  
6 determines that the person meets the requirements of this  
7 subdivision, the department shall grant the exclusion and no  
8 information concerning the person shall be made available via  
9 the Internet Web site described in this section. He or she bears  
10 the burden of proving the facts that make him or her eligible for  
11 exclusion from the Internet Web site. However, a person who has  
12 filed for or been granted an exclusion from the Internet Web site  
13 is not relieved of his or her duty to register as a sex offender  
14 pursuant to Section 290 nor from any otherwise applicable  
15 provision of law.

16 (2) This subdivision shall apply to the following offenses:

17 (A) A felony violation of subdivision (a) of Section 243.4.

18 (B) Section 647.6, provided the offense is a misdemeanor.

19 (C) (i) An offense for which the offender successfully  
20 completed probation, provided that the offender submits to the  
21 department a certified copy of a probation report, presentencing  
22 report, report prepared pursuant to Section 288.1, or other official  
23 court document that clearly demonstrates both of the following:

24 (I) The offender was the victim's parent, stepparent, sibling, or  
25 grandparent.

26 (II) The crime did not involve either oral copulation or  
27 penetration of the vagina or rectum of either the victim or the  
28 offender by the penis of the other or by any foreign object.

29 (ii) An offense for which the offender is on probation at the  
30 time of his or her application, provided that the offender submits  
31 to the department a certified copy of a probation report,  
32 presentencing report, report prepared pursuant to Section 288.1,  
33 or other official court document that clearly demonstrates both of  
34 the following:

35 (I) The offender was the victim's parent, stepparent, sibling, or  
36 grandparent.

37 (II) The crime did not involve either oral copulation or  
38 penetration of the vagina or rectum of either the victim or the  
39 offender by the penis of the other or by any foreign object.

1 (iii) If, subsequent to his or her application, the offender  
2 commits a violation of probation resulting in his or her  
3 incarceration in county jail or state prison, his or her exclusion,  
4 or application for exclusion, from the Internet Web site shall be  
5 terminated.

6 (iv) For the purposes of this subparagraph, “successfully  
7 completed probation” means that during the period of probation  
8 the offender neither received additional county jail or state prison  
9 time for a violation of probation nor was convicted of another  
10 offense resulting in a sentence to county jail or state prison.

11 (f) The Department of Justice shall make a reasonable effort to  
12 provide notification to persons who have been convicted of the  
13 commission or attempted commission of an offense specified in  
14 subdivision (b), (c), or (d), that on or before July 1, 2005, the  
15 department is required to make information about specified sex  
16 offenders available to the public via an Internet Web site as  
17 specified in this section. The Department of Justice shall also  
18 make a reasonable effort to provide notice that some offenders  
19 are eligible to apply for exclusion from the Internet Web site.

20 (g) (1) A designated law enforcement entity, as defined in  
21 subdivision (f) of Section 290.45, may make available  
22 information concerning persons who are required to register  
23 pursuant to Section 290 to the public via an Internet Web site as  
24 specified in paragraph (2).

25 (2) The law enforcement entity may make available by way of  
26 an Internet Web site the information described in subdivision (c)  
27 if it determines that the public disclosure of the information  
28 about a specific offender by way of the entity’s Internet Web site  
29 is necessary to ensure the public safety based upon information  
30 available to the entity concerning that specific offender.

31 (3) The information that may be provided pursuant to this  
32 subdivision may include the information specified in subdivision  
33 (b) of Section 290.45. However, that offender’s address may not  
34 be disclosed unless he or she is a person whose address is on the  
35 Department of Justice’s Internet Web site pursuant to subdivision  
36 (b) or (c).

37 (h) For purposes of this section, “offense” includes the  
38 statutory predecessors of that offense, or any offense committed  
39 in another jurisdiction that, if committed or attempted to be  
40 committed in this state, would have been punishable in this state



1 as an offense listed in subparagraph (A) of paragraph (2) of  
2 subdivision (a) of Section 290.

3 (i) Notwithstanding Section 6254.5 of the Government Code,  
4 disclosure of information pursuant to this section is not a waiver  
5 of exemptions under Chapter 3.5 (commencing with Section  
6 6250) of Title 1 of Division 7 of the Government Code and does  
7 not affect other statutory restrictions on disclosure in other  
8 situations.

9 (j) (1) Any person who uses information disclosed pursuant to  
10 this section to commit a misdemeanor shall be subject to, in  
11 addition to any other penalty or fine imposed, a fine of not less  
12 than ten thousand dollars (\$10,000) and not more than fifty  
13 thousand dollars (\$50,000).

14 (2) Any person who uses information disclosed pursuant to  
15 this section to commit a felony shall be punished, in addition and  
16 consecutive to any other punishment, by a five-year term of  
17 imprisonment in the state prison.

18 (k) Any person who is required to register pursuant to Section  
19 290 who enters an Internet Web site established pursuant to this  
20 section shall be punished by a fine not exceeding one thousand  
21 dollars (\$1,000), imprisonment in a county jail for a period not to  
22 exceed six months, or by both that fine and imprisonment.

23 (l) (1) A person is authorized to use information disclosed  
24 pursuant to this section only to protect a person at risk.

25 (2) Except as authorized under paragraph (1) or any other  
26 provision of law, use of any information that is disclosed  
27 pursuant to this section for purposes relating to any of the  
28 following is prohibited:

29 (A) Health insurance.

30 (B) Insurance.

31 (C) Loans.

32 (D) Credit.

33 (E) Employment.

34 (F) Education, scholarships, or fellowships.

35 (G) Housing or accommodations.

36 (H) Benefits, privileges, or services provided by any business  
37 establishment.

38 (3) This section shall not affect authorized access to, or use of,  
39 information pursuant to, among other provisions, Sections 11105  
40 and 11105.3, Section 8808 of the Family Code, Sections 777.5

1 and 14409.2 of the Financial Code, Sections 1522.01 and  
2 1596.871 of the Health and Safety Code, and Section 432.7 of  
3 the Labor Code.

4 (4) (A) Any use of information disclosed pursuant to this  
5 section for purposes other than those provided by paragraph (1)  
6 or in violation of paragraph (2) shall make the user liable for the  
7 actual damages, and any amount that may be determined by a  
8 jury or a court sitting without a jury, not exceeding three times  
9 the amount of actual damage, and not less than two hundred fifty  
10 dollars (\$250), and attorney's fees, exemplary damages, or a civil  
11 penalty not exceeding twenty-five thousand dollars (\$25,000).

12 (B) Whenever there is reasonable cause to believe that any  
13 person or group of persons is engaged in a pattern or practice of  
14 misuse of the information available via an Internet Web site  
15 established pursuant to this section in violation of paragraph (2),  
16 the Attorney General, any district attorney, or city attorney, or  
17 any person aggrieved by the misuse is authorized to bring a civil  
18 action in the appropriate court requesting preventive relief,  
19 including an application for a permanent or temporary injunction,  
20 restraining order, or other order against the person or group of  
21 persons responsible for the pattern or practice of misuse. The  
22 foregoing remedies shall be independent of any other remedies or  
23 procedures that may be available to an aggrieved party under  
24 other provisions of law, including Part 2 (commencing with  
25 Section 43) of Division 1 of the Civil Code.

26 (m) The public notification provisions of this section are  
27 applicable to every person described in this section, without  
28 regard to when his or her crimes were committed or his or her  
29 duty to register pursuant to Section 290 arose, and to every  
30 offense described in this section, regardless of when it was  
31 committed.

32 (n) On or before July 1, 2006, and every year thereafter, the  
33 Department of Justice shall make a report to the Legislature  
34 concerning the operation of this section.

35 (o) A designated law enforcement entity and its employees  
36 shall be immune from liability for good faith conduct under this  
37 section.

38 SEC. 1.1. Section 290.46 of the Penal Code is amended to  
39 read:

1 290.46. (a) (1) On or before the dates specified in this  
2 section, the Department of Justice shall make available  
3 information concerning persons who are required to register  
4 pursuant to Section 290 to the public via an Internet Web site as  
5 specified in this section. The department shall update the Internet  
6 Web site on an ongoing basis. All information identifying the  
7 victim by name, birth date, address, or relationship to the  
8 registrant shall be excluded from the Internet Web site. The name  
9 or address of the person's employer and the listed person's  
10 criminal history other than the specific crimes for which the  
11 person is required to register shall not be included on the Internet  
12 Web site. The Internet Web site shall be translated into languages  
13 other than English as determined by the department.

14 (2) (A) On or before July 1, 2010, the Department of Justice  
15 shall make available to the public, via an Internet Web site as  
16 specified in this section, as to any person described in  
17 subdivisions (b), (c), or (d), the following information:

18 (i) The year of conviction of his or her most recent offense  
19 requiring registration pursuant to Section 290.

20 (ii) The year he or she was released from incarceration for that  
21 offense.

22 (iii) Whether he or she was subsequently incarcerated for any  
23 other felony, if that fact is reported to the department. If the  
24 department has no information about a subsequent incarceration  
25 for any felony, that fact shall be noted on the Internet Web site.

26 However, no year of conviction shall be made available to the  
27 public unless the department also is able to make available the  
28 corresponding year of release of incarceration for that offense,  
29 and the required notation regarding any subsequent felony.

30 (B) (i) Any ~~state or local~~ facility that releases from  
31 incarceration a person who was incarcerated because of a crime  
32 for which he or she is required to register as a sex offender  
33 pursuant to Section 290 shall, within 30 days of release, provide  
34 the year of conviction and year of release for his or her most  
35 recent offense requiring registration to the Department of Justice  
36 in a manner and format approved by the department, *if that*  
37 *information is readily accessible to the facility.*

38 (ii) Any ~~state or local~~ facility that releases a person who is  
39 required to register pursuant to Section 290 from incarceration  
40 whose incarceration was for a felony committed subsequently to

1 the offense for which he or she is required to register shall,  
2 within 30 days of release, advise the Department of Justice of  
3 that fact, *if that information is readily accessible to the facility.*

4 (iii) Any state-~~or local~~ facility that, prior to January 1, 2007,  
5 released from incarceration a person who was incarcerated  
6 because of a crime for which he or she is required to register as a  
7 sex offender pursuant to Section 290 shall provide the year of  
8 conviction and year of release for his or her most recent offense  
9 requiring registration to the Department of Justice in a manner  
10 and format approved by the department, *if that information is*  
11 *readily accessible to the facility. The information provided by the*  
12 *Department of Corrections and Rehabilitation shall be limited to*  
13 *information that is currently maintained in an electronic format.*  
14 *If the information is not currently maintained in an electronic*  
15 *format, there shall be a notation that the event occurred prior to*  
16 *1978.*

17 (iv) Any state-~~or local~~ facility that, prior to January 1, 2007,  
18 released a person who is required to register pursuant to Section  
19 290 from incarceration whose incarceration was for a felony  
20 committed subsequently to the offense for which he or she is  
21 required to register shall advise the Department of Justice of that  
22 fact in a manner and format approved by the department, *if that*  
23 *information is readily accessible to the facility. The information*  
24 *provided by the Department of Corrections and Rehabilitation*  
25 *shall be limited to information that is currently maintained in an*  
26 *electronic format. If the information is not currently maintained*  
27 *in an electronic format, there shall be a notation that the event*  
28 *occurred prior to 1978.*

29 (b) (1) On or before July 1, 2005, with respect to a person  
30 who has been convicted of the commission or the attempted  
31 commission of any of the offenses listed in, or who is described  
32 in, paragraph (2), the Department of Justice shall make available  
33 to the public via the Internet Web site his or her name and known  
34 aliases, a photograph, a physical description, including gender  
35 and race, date of birth, criminal history, the address at which the  
36 person resides, and any other information that the Department of  
37 Justice deems relevant, but not the information excluded pursuant  
38 to subdivision (a).

39 (2) This subdivision shall apply to the following offenses and  
40 offenders:

1 (A) Section 207 committed with intent to violate Section 261,  
2 286, 288, 288a, or 289.

3 (B) Section 209 committed with intent to violate Section 261,  
4 286, 288, 288a, or 289.

5 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

6 (D) Section 264.1.

7 (E) Section 269.

8 (F) Subdivision (c) or (d) of Section 286.

9 (G) Subdivision (a), (b), or (c) of Section 288, provided that  
10 the offense is a felony.

11 (H) Subdivision (c) or (d) of Section 288a.

12 (I) Section 288.5.

13 (J) Subdivision (a) or (j) of Section 289.

14 (K) Any person who has ever been adjudicated a sexually  
15 violent predator as defined in Section 6600 of the Welfare and  
16 Institutions Code.

17 (c) (1) On or before July 1, 2005, with respect to a person  
18 who has been convicted of the commission or the attempted  
19 commission of any of the offenses listed in paragraph (2), the  
20 Department of Justice shall make available to the public via the  
21 Internet Web site his or her name and known aliases, a  
22 photograph, a physical description, including gender and race,  
23 date of birth, criminal history, the community of residence and  
24 ZIP Code in which the person resides or the county in which the  
25 person is registered as a transient, and any other information that  
26 the Department of Justice deems relevant, but not the information  
27 excluded pursuant to subdivision (a). On or before July 1, 2006,  
28 the Department of Justice shall determine whether any person  
29 convicted of an offense listed in paragraph (2) also has one or  
30 more prior or subsequent convictions of an offense listed in  
31 paragraph (2) of subdivision (a) of Section 290, and, for those  
32 persons, the Department of Justice shall make available to the  
33 public via the Internet Web site the address at which the person  
34 resides. However, the address at which the person resides shall  
35 not be disclosed until a determination is made that the person is,  
36 by virtue of his or her additional prior or subsequent conviction  
37 of an offense listed in paragraph (2) of subdivision (a) of Section  
38 290, subject to this subdivision.

39 (2) This subdivision shall apply to the following offenses:

40 (A) Section 220, except assault to commit mayhem.

1 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

2 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
3 (i), of Section 286.

4 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
5 (i), of Section 288a.

6 (E) Subdivision (b), (d), (e), or (i) of Section 289.

7 (d) (1) On or before July 1, 2005, with respect to a person  
8 who has been convicted of the commission or the attempted  
9 commission of any of the offenses listed in, or who is described  
10 in, this subdivision, the Department of Justice shall make  
11 available to the public via the Internet Web site his or her name  
12 and known aliases, a photograph, a physical description,  
13 including gender and race, date of birth, criminal history, the  
14 community of residence and ZIP Code in which the person  
15 resides or the county in which the person is registered as a  
16 transient, and any other information that the Department of  
17 Justice deems relevant, but not the information excluded pursuant  
18 to subdivision (a) or the address at which the person resides.

19 (2) This subdivision shall apply to the following offenses and  
20 offenders:

21 (A) Subdivision (a) of Section 243.4, provided that the offense  
22 is a felony.

23 (B) Section 266, provided that the offense is a felony.

24 (C) Section 266c, provided that the offense is a felony.

25 (D) Section 266j.

26 (E) Section 267.

27 (F) Subdivision (c) of Section 288, provided that the offense is  
28 a misdemeanor.

29 (G) Section 647.6.

30 (H) Any person required to register pursuant to Section 290  
31 based upon an out-of-state conviction, unless that person is  
32 excluded from the Internet Web site pursuant to subdivision (e).  
33 However, if the Department of Justice has determined that the  
34 out-of-state crime, if committed or attempted in this state, would  
35 have been punishable in this state as a crime described in  
36 subparagraph (A) of paragraph (2) of subdivision (a) of Section  
37 290, the person shall be placed on the Internet Web site as  
38 provided in subdivision (b) or (c), as applicable to the crime.

39 (e) (1) If a person has been convicted of the commission or  
40 the attempted commission of any of the offenses listed in this

1 subdivision, and he or she has been convicted of no other offense  
2 listed in subdivision (b), (c), or (d) other than those listed in this  
3 subdivision, that person may file an application with the  
4 Department of Justice, on a form approved by the department, for  
5 exclusion from the Internet Web site. If the department  
6 determines that the person meets the requirements of this  
7 subdivision, the department shall grant the exclusion and no  
8 information concerning the person shall be made available via  
9 the Internet Web site described in this section. He or she bears  
10 the burden of proving the facts that make him or her eligible for  
11 exclusion from the Internet Web site. However, a person who has  
12 filed for or been granted an exclusion from the Internet Web site  
13 is not relieved of his or her duty to register as a sex offender  
14 pursuant to Section 290 nor from any otherwise applicable  
15 provision of law.

16 (2) This subdivision shall apply to the following offenses:

17 (A) A felony violation of subdivision (a) of Section 243.4.

18 (B) Section 647.6, provided the offense is a misdemeanor.

19 (C) (i) An offense for which the offender successfully  
20 completed probation, provided that the offender submits to the  
21 department a certified copy of a probation report, presentencing  
22 report, report prepared pursuant to Section 288.1, or other official  
23 court document that clearly demonstrates both of the following:

24 (I) The offender was the victim's parent, stepparent, sibling, or  
25 grandparent.

26 (II) The crime did not involve either oral copulation or  
27 penetration of the vagina or rectum of either the victim or the  
28 offender by the penis of the other or by any foreign object.

29 (ii) An offense for which the offender is on probation at the  
30 time of his or her application, provided that the offender submits  
31 to the department a certified copy of a probation report,  
32 presentencing report, report prepared pursuant to Section 288.1,  
33 or other official court document that clearly demonstrates both of  
34 the following:

35 (I) The offender was the victim's parent, stepparent, sibling, or  
36 grandparent.

37 (II) The crime did not involve either oral copulation or  
38 penetration of the vagina or rectum of either the victim or the  
39 offender by the penis of the other or by any foreign object.

1 (iii) If, subsequent to his or her application, the offender  
2 commits a violation of probation resulting in his or her  
3 incarceration in county jail or state prison, his or her exclusion,  
4 or application for exclusion, from the Internet Web site shall be  
5 terminated.

6 (iv) For the purposes of this subparagraph, “successfully  
7 completed probation” means that during the period of probation  
8 the offender neither received additional county jail or state prison  
9 time for a violation of probation nor was convicted of another  
10 offense resulting in a sentence to county jail or state prison.

11 (f) The Department of Justice shall make a reasonable effort to  
12 provide notification to persons who have been convicted of the  
13 commission or attempted commission of an offense specified in  
14 subdivision (b), (c), or (d), that on or before July 1, 2005, the  
15 department is required to make information about specified sex  
16 offenders available to the public via an Internet Web site as  
17 specified in this section. The Department of Justice shall also  
18 make a reasonable effort to provide notice that some offenders  
19 are eligible to apply for exclusion from the Internet Web site.

20 (g) (1) A designated law enforcement entity, as defined in  
21 subdivision (f) of Section 290.45, may make available  
22 information concerning persons who are required to register  
23 pursuant to Section 290 to the public via an Internet Web site as  
24 specified in paragraph (2).

25 (2) The law enforcement entity may make available by way of  
26 an Internet Web site the information described in subdivision (c)  
27 if it determines that the public disclosure of the information  
28 about a specific offender by way of the entity’s Internet Web site  
29 is necessary to ensure the public safety based upon information  
30 available to the entity concerning that specific offender.

31 (3) The information that may be provided pursuant to this  
32 subdivision may include the information specified in subdivision  
33 (b) of Section 290.45. However, that offender’s address may not  
34 be disclosed unless he or she is a person whose address is on the  
35 Department of Justice’s Internet Web site pursuant to subdivision  
36 (b) or (c).

37 (h) For purposes of this section, “offense” includes the  
38 statutory predecessors of that offense, or any offense committed  
39 in another jurisdiction that, if committed or attempted to be  
40 committed in this state, would have been punishable in this state



1 as an offense listed in subparagraph (A) of paragraph (2) of  
2 subdivision (a) of Section 290.

3 (i) Notwithstanding Section 6254.5 of the Government Code,  
4 disclosure of information pursuant to this section is not a waiver  
5 of exemptions under Chapter 3.5 (commencing with Section  
6 6250) of Title 1 of Division 7 of the Government Code and does  
7 not affect other statutory restrictions on disclosure in other  
8 situations.

9 (j) (1) Any person who uses information disclosed pursuant to  
10 this section to commit a misdemeanor shall be subject to, in  
11 addition to any other penalty or fine imposed, a fine of not less  
12 than ten thousand dollars (\$10,000) and not more than fifty  
13 thousand dollars (\$50,000).

14 (2) Any person who uses information disclosed pursuant to  
15 this section to commit a felony shall be punished, in addition and  
16 consecutive to any other punishment, by a five-year term of  
17 imprisonment in the state prison.

18 (k) Any person who is required to register pursuant to Section  
19 290 who enters an Internet Web site established pursuant to this  
20 section shall be punished by a fine not exceeding one thousand  
21 dollars (\$1,000), imprisonment in a county jail for a period not to  
22 exceed six months, or by both that fine and imprisonment.

23 (l) (1) A person is authorized to use information disclosed  
24 pursuant to this section only to protect a person at risk. This  
25 authorization does not create a duty to use the information.

26 (2) Except as authorized under paragraph (1) or any other  
27 provision of law, use of any information that is disclosed  
28 pursuant to this section for purposes relating to any of the  
29 following is prohibited:

30 (A) Health insurance.

31 (B) Insurance.

32 (C) Loans.

33 (D) Credit.

34 (E) Employment.

35 (F) Education, scholarships, or fellowships.

36 (G) Housing or accommodations.

37 (H) Benefits, privileges, or services provided by any business  
38 establishment.

39 (3) This section shall not affect authorized access to, or use of,  
40 information pursuant to, among other provisions, Sections 11105

1 and 11105.3, Section 8808 of the Family Code, Sections 777.5  
2 and 14409.2 of the Financial Code, Sections 1522.01 and  
3 1596.871 of the Health and Safety Code, and Section 432.7 of  
4 the Labor Code.

5 (4) (A) Any use of information disclosed pursuant to this  
6 section for purposes other than those provided by paragraph (1)  
7 or in violation of paragraph (2) shall make the user liable for the  
8 actual damages, and any amount that may be determined by a  
9 jury or a court sitting without a jury, not exceeding three times  
10 the amount of actual damage, and not less than two hundred fifty  
11 dollars (\$250), and attorney's fees, exemplary damages, or a civil  
12 penalty not exceeding twenty-five thousand dollars (\$25,000).

13 (B) Whenever there is reasonable cause to believe that any  
14 person or group of persons is engaged in a pattern or practice of  
15 misuse of the information available via an Internet Web site  
16 established pursuant to this section in violation of paragraph (2),  
17 the Attorney General, any district attorney, or city attorney, or  
18 any person aggrieved by the misuse is authorized to bring a civil  
19 action in the appropriate court requesting preventive relief,  
20 including an application for a permanent or temporary injunction,  
21 restraining order, or other order against the person or group of  
22 persons responsible for the pattern or practice of misuse. The  
23 foregoing remedies shall be independent of any other remedies or  
24 procedures that may be available to an aggrieved party under  
25 other provisions of law, including Part 2 (commencing with  
26 Section 43) of Division 1 of the Civil Code.

27 (m) The public notification provisions of this section are  
28 applicable to every person described in this section, without  
29 regard to when his or her crimes were committed or his or her  
30 duty to register pursuant to Section 290 arose, and to every  
31 offense described in this section, regardless of when it was  
32 committed.

33 (n) On or before July 1, 2006, and every year thereafter, the  
34 Department of Justice shall make a report to the Legislature  
35 concerning the operation of this section.

36 (o) A designated law enforcement entity and its employees  
37 shall be immune from liability for good faith conduct under this  
38 section.

39 SEC. 1.2. Section 290.46 of the Penal Code is amended to  
40 read:

1 290.46. (a) (1) On or before the dates specified in this  
2 section, the Department of Justice shall make available  
3 information concerning persons who are required to register  
4 pursuant to Section 290 to the public via an Internet Web site as  
5 specified in this section. The department shall update the Internet  
6 Web site on an ongoing basis. All information identifying the  
7 victim by name, birth date, address, or relationship to the  
8 registrant shall be excluded from the Internet Web site. The name  
9 or address of the person's employer and the listed person's  
10 criminal history other than the specific crimes for which the  
11 person is required to register shall not be included on the Internet  
12 Web site. The Internet Web site shall be translated into languages  
13 other than English as determined by the department.

14 (2) (A) On or before July 1, 2010, the Department of Justice  
15 shall make available to the public, via an Internet Web site as  
16 specified in this section, as to any person described in  
17 subdivisions (b), (c), or (d), the following information:

18 (i) The year of conviction of his or her most recent offense  
19 requiring registration pursuant to Section 290.

20 (ii) The year he or she was released from incarceration for that  
21 offense.

22 (iii) Whether he or she was subsequently incarcerated for any  
23 other felony, if that fact is reported to the department. If the  
24 department has no information about a subsequent incarceration  
25 for any felony, that fact shall be noted on the Internet Web site.

26 However, no year of conviction shall be made available to the  
27 public unless the department also is able to make available the  
28 corresponding year of release of incarceration for that offense,  
29 and the required notation regarding any subsequent felony.

30 (B) (i) Any state—~~or local~~ facility that releases from  
31 incarceration a person who was incarcerated because of a crime  
32 for which he or she is required to register as a sex offender  
33 pursuant to Section 290 shall, within 30 days of release, provide  
34 the year of conviction and year of release for his or her most  
35 recent offense requiring registration to the Department of Justice  
36 in a manner and format approved by the department, *if that*  
37 *information is readily accessible to the facility.*

38 (ii) Any state—~~or local~~ facility that releases a person who is  
39 required to register pursuant to Section 290 from incarceration  
40 whose incarceration was for a felony committed subsequently to

1 the offense for which he or she is required to register shall,  
2 within 30 days of release, advise the Department of Justice of  
3 that fact, *if that information is readily accessible to the facility.*

4 (iii) Any state-~~or local~~ facility that, prior to January 1, 2007,  
5 released from incarceration a person who was incarcerated  
6 because of a crime for which he or she is required to register as a  
7 sex offender pursuant to Section 290 shall provide the year of  
8 conviction and year of release for his or her most recent offense  
9 requiring registration to the Department of Justice in a manner  
10 and format approved by the department, *if that information is*  
11 *readily accessible to the facility. The information provided by the*  
12 *Department of Corrections and Rehabilitation shall be limited to*  
13 *information that is currently maintained in an electronic format.*  
14 *If the information is not currently maintained in an electronic*  
15 *format, there shall be a notation that the event occurred prior to*  
16 *1978.*

17 (iv) Any state-~~or local~~ facility that, prior to January 1, 2007,  
18 released a person who is required to register pursuant to Section  
19 290 from incarceration whose incarceration was for a felony  
20 committed subsequently to the offense for which he or she is  
21 required to register shall advise the Department of Justice of that  
22 fact in a manner and format approved by the department, *if that*  
23 *information is readily accessible to the facility. The information*  
24 *provided by the Department of Corrections and Rehabilitation*  
25 *shall be limited to information that is currently maintained in an*  
26 *electronic format. If the information is not currently maintained*  
27 *in an electronic format, there shall be a notation that the event*  
28 *occurred prior to 1978.*

29 (3) The Department of Mental Health shall provide to the  
30 Department of Justice Sex Offender Tracking Program the names  
31 of all persons committed to its custody pursuant to Article 4  
32 (commencing with Section 6600) of Chapter 2 of Part 2 of  
33 Division 6 of the Welfare and Institutions Code, within 30 days  
34 of commitment, and shall provide the names of all of those  
35 persons released from its custody within five working days of  
36 release.

37 (b) (1) On or before July 1, 2005, with respect to a person  
38 who has been convicted of the commission or the attempted  
39 commission of any of the offenses listed in, or who is described  
40 in, paragraph (2), the Department of Justice shall make available

1 to the public via the Internet Web site his or her name and known  
2 aliases, a photograph, a physical description, including gender  
3 and race, date of birth, criminal history, prior adjudication as a  
4 sexually violent predator, the address at which the person resides,  
5 and any other information that the Department of Justice deems  
6 relevant, but not the information excluded pursuant to  
7 subdivision (a).

8 (2) This subdivision shall apply to the following offenses and  
9 offenders:

10 (A) Section 207 committed with intent to violate Section 261,  
11 286, 288, 288a, or 289.

12 (B) Section 209 committed with intent to violate Section 261,  
13 286, 288, 288a, or 289.

14 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

15 (D) Section 264.1.

16 (E) Section 269.

17 (F) Subdivision (c) or (d) of Section 286.

18 (G) Subdivision (a), (b), or (c) of Section 288, provided that  
19 the offense is a felony.

20 (H) Subdivision (c) or (d) of Section 288a.

21 (I) Section 288.3, provided that the offense is a felony.

22 (J) Section 288.5.

23 (K) Subdivision (a) or (j) of Section 289.

24 (L) Section 288.7.

25 (M) Any person who has ever been adjudicated a sexually  
26 violent predator as defined in Section 6600 of the Welfare and  
27 Institutions Code.

28 (c) (1) On or before July 1, 2005, with respect to a person  
29 who has been convicted of the commission or the attempted  
30 commission of any of the offenses listed in paragraph (2), the  
31 Department of Justice shall make available to the public via the  
32 Internet Web site his or her name and known aliases, a  
33 photograph, a physical description, including gender and race,  
34 date of birth, criminal history, the community of residence and  
35 ZIP Code in which the person resides or the county in which the  
36 person is registered as a transient, and any other information that  
37 the Department of Justice deems relevant, but not the information  
38 excluded pursuant to subdivision (a). On or before July 1, 2006,  
39 the Department of Justice shall determine whether any person  
40 convicted of an offense listed in paragraph (2) also has one or

1 more prior or subsequent convictions of an offense listed in  
2 paragraph (2) of subdivision (a) of Section 290, and, for those  
3 persons, the Department of Justice shall make available to the  
4 public via the Internet Web site the address at which the person  
5 resides. However, the address at which the person resides shall  
6 not be disclosed until a determination is made that the person is,  
7 by virtue of his or her additional prior or subsequent conviction  
8 of an offense listed in paragraph (2) of subdivision (a) of Section  
9 290, subject to this subdivision.

10 (2) This subdivision shall apply to the following offenses:

11 (A) Section 220, except assault to commit mayhem.

12 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

13 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
14 (i), of Section 286.

15 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
16 (i), of Section 288a.

17 (E) Subdivision (b), (d), (e), or (i) of Section 289.

18 (d) (1) On or before July 1, 2005, with respect to a person  
19 who has been convicted of the commission or the attempted  
20 commission of any of the offenses listed in, or who is described  
21 in, this subdivision, the Department of Justice shall make  
22 available to the public via the Internet Web site his or her name  
23 and known aliases, a photograph, a physical description,  
24 including gender and race, date of birth, criminal history, the  
25 community of residence and ZIP Code in which the person  
26 resides or the county in which the person is registered as a  
27 transient, and any other information that the Department of  
28 Justice deems relevant, but not the information excluded pursuant  
29 to subdivision (a) or the address at which the person resides.

30 (2) This subdivision shall apply to the following offenses and  
31 offenders:

32 (A) Subdivision (a) of Section 243.4, provided that the offense  
33 is a felony.

34 (B) Section 266, provided that the offense is a felony.

35 (C) Section 266c, provided that the offense is a felony.

36 (D) Section 266j.

37 (E) Section 267.

38 (F) Subdivision (c) of Section 288, provided that the offense is  
39 a misdemeanor.

40 (G) Section 288.3, provided that the offense is a misdemeanor.

1 (H) Section 626.81.

2 (I) Section 647.6.

3 (J) Section 653c.

4 (K) Any person required to register pursuant to Section 290  
5 based upon an out-of-state conviction, unless that person is  
6 excluded from the Internet Web site pursuant to subdivision (e).  
7 However, if the Department of Justice has determined that the  
8 out-of-state crime, if committed or attempted in this state, would  
9 have been punishable in this state as a crime described in  
10 subparagraph (A) of paragraph (2) of subdivision (a) of Section  
11 290, the person shall be placed on the Internet Web site as  
12 provided in subdivision (b) or (c), as applicable to the crime.

13 (e) (1) If a person has been convicted of the commission or  
14 the attempted commission of any of the offenses listed in this  
15 subdivision, and he or she has been convicted of no other offense  
16 listed in subdivision (b), (c), or (d) other than those listed in this  
17 subdivision, that person may file an application with the  
18 Department of Justice, on a form approved by the department, for  
19 exclusion from the Internet Web site. If the department  
20 determines that the person meets the requirements of this  
21 subdivision, the department shall grant the exclusion and no  
22 information concerning the person shall be made available via  
23 the Internet Web site described in this section. He or she bears  
24 the burden of proving the facts that make him or her eligible for  
25 exclusion from the Internet Web site. However, a person who has  
26 filed for or been granted an exclusion from the Internet Web site  
27 is not relieved of his or her duty to register as a sex offender  
28 pursuant to Section 290 nor from any otherwise applicable  
29 provision of law.

30 (2) This subdivision shall apply to the following offenses:

31 (A) A felony violation of subdivision (a) of Section 243.4.

32 (B) Section 647.6, if the offense is a misdemeanor.

33 (C) (i) An offense for which the offender successfully  
34 completed probation, provided that the offender submits to the  
35 department a certified copy of a probation report, presentencing  
36 report, report prepared pursuant to Section 288.1, or other official  
37 court document that clearly demonstrates that the offender was  
38 the victim's parent, stepparent, sibling, or grandparent and that  
39 the crime did not involve either oral copulation or penetration of

1 the vagina or rectum of either the victim or the offender by the  
2 penis of the other or by any foreign object.

3 (ii) An offense for which the offender is on probation at the  
4 time of his or her application, provided that the offender submits  
5 to the department a certified copy of a probation report,  
6 presentencing report, report prepared pursuant to Section 288.1,  
7 or other official court document that clearly demonstrates that the  
8 offender was the victim's parent, stepparent, sibling, or  
9 grandparent

10 and that the crime did not involve either oral copulation or  
11 penetration of the vagina or rectum of either the victim or the  
12 offender by the penis of the other or by any foreign object.

13 (iii) If, subsequent to his or her application, the offender  
14 commits a violation of probation resulting in his or her  
15 incarceration in county jail or state prison, his or her exclusion,  
16 or application for exclusion, from the Internet Web site shall be  
17 terminated.

18 (iv) For the purposes of this subparagraph, "successfully  
19 completed probation" means that during the period of probation  
20 the offender neither received additional county jail or state prison  
21 time for a violation of probation nor was convicted of another  
22 offense resulting in a sentence to county jail or state prison.

23 (3) If the department determines that a person who was  
24 granted an exclusion under a former version of this subdivision  
25 would not qualify for an exclusion under the current version of  
26 this subdivision, the department shall rescind the exclusion, make  
27 a reasonable effort to provide notification to the person that the  
28 exclusion has been rescinded, and, no sooner than 30 days after  
29 notification is attempted, make information about the offender  
30 available to the public on the Internet Web site as provided in  
31 this section.

32 (4) Effective January 1, 2012, no person shall be excluded  
33 pursuant to this subdivision unless the offender has submitted to  
34 the department documentation sufficient for the department to  
35 determine that he or she has a SARATSO risk level of low or  
36 moderate-low.

37 (f) The Department of Justice shall make a reasonable effort to  
38 provide notification to persons who have been convicted of the  
39 commission or attempted commission of an offense specified in  
40 subdivision (b), (c), or (d), that on or before July 1, 2005, the



1 department is required to make information about specified sex  
2 offenders available to the public via an Internet Web site as  
3 specified in this section. The Department of Justice shall also  
4 make a reasonable effort to provide notice that some offenders  
5 are eligible to apply for exclusion from the Internet Web site.

6 (g) (1) A designated law enforcement entity, as defined in  
7 subdivision (f) of Section 290.45, may make available  
8 information concerning persons who are required to register  
9 pursuant to Section 290 to the public via an Internet Web site as  
10 specified in paragraph (2).

11 (2) The law enforcement entity may make available by way of  
12 an Internet Web site the information described in subdivision (c)  
13 if it determines that the public disclosure of the information  
14 about a specific offender by way of the entity's Internet Web site  
15 is necessary to ensure the public safety based upon information  
16 available to the entity concerning that specific offender.

17 (3) The information that may be provided pursuant to this  
18 subdivision may include the information specified in subdivision  
19 (b) of Section 290.45. However, that offender's address may not  
20 be disclosed unless he or she is a person whose address is on the  
21 Department of Justice's Internet Web site pursuant to subdivision  
22 (b) or (c).

23 (h) For purposes of this section, "offense" includes the  
24 statutory predecessors of that offense, or any offense committed  
25 in another jurisdiction that, if committed or attempted to be  
26 committed in this state, would have been punishable in this state  
27 as an offense listed in subparagraph (A) of paragraph (2) of  
28 subdivision (a) of Section 290.

29 (i) Notwithstanding Section 6254.5 of the Government Code,  
30 disclosure of information pursuant to this section is not a waiver  
31 of exemptions under Chapter 3.5 (commencing with Section  
32 6250) of Title 1 of Division 7 of the Government Code and does  
33 not affect other statutory restrictions on disclosure in other  
34 situations.

35 (j) (1) Any person who uses information disclosed pursuant to  
36 this section to commit a misdemeanor shall be subject to, in  
37 addition to any other penalty or fine imposed, a fine of not less  
38 than ten thousand dollars (\$10,000) and not more than fifty  
39 thousand dollars (\$50,000).

1 (2) Any person who uses information disclosed pursuant to  
2 this section to commit a felony shall be punished, in addition and  
3 consecutive to any other punishment, by a five-year term of  
4 imprisonment in the state prison.

5 (k) Any person who is required to register pursuant to Section  
6 290 who enters an Internet Web site established pursuant to this  
7 section shall be punished by a fine not exceeding one thousand  
8 dollars (\$1,000), imprisonment in a county jail for a period not to  
9 exceed six months, or by both that fine and imprisonment.

10 (l) (1) A person is authorized to use information disclosed  
11 pursuant to this section only to protect a person at risk.

12 (2) Except as authorized under paragraph (1) or any other  
13 provision of law, use of any information that is disclosed  
14 pursuant to this section for purposes relating to any of the  
15 following is prohibited:

16 (A) Health insurance.

17 (B) Insurance.

18 (C) Loans.

19 (D) Credit.

20 (E) Employment.

21 (F) Education, scholarships, or fellowships.

22 (G) Housing or accommodations.

23 (H) Benefits, privileges, or services provided by any business  
24 establishment.

25 (3) This section shall not affect authorized access to, or use of,  
26 information pursuant to, among other provisions, Sections 11105  
27 and 11105.3, Section 8808 of the Family Code, Sections 777.5  
28 and 14409.2 of the Financial Code, Sections 1522.01 and  
29 1596.871 of the Health and Safety Code, and Section 432.7 of  
30 the Labor Code.

31 (4) (A) Any use of information disclosed pursuant to this  
32 section for purposes other than those provided by paragraph (1)  
33 or in violation of paragraph (2) shall make the user liable for the  
34 actual damages, and any amount that may be determined by a  
35 jury or a court sitting without a jury, not exceeding three times  
36 the amount of actual damage, and not less than two hundred fifty  
37 dollars (\$250), and attorney's fees, exemplary damages, or a civil  
38 penalty not exceeding twenty-five thousand dollars (\$25,000).

39 (B) Whenever there is reasonable cause to believe that any  
40 person or group of persons is engaged in a pattern or practice of

1 misuse of the information available via an Internet Web site  
2 established pursuant to this section in violation of paragraph (2),  
3 the Attorney General, any district attorney, or city attorney, or  
4 any person aggrieved by the misuse is authorized to bring a civil  
5 action in the appropriate court requesting preventive relief,  
6 including an application for a permanent or temporary injunction,  
7 restraining order, or other order against the person or group of  
8 persons responsible for the pattern or practice of misuse. The  
9 foregoing remedies shall be independent of any other remedies or  
10 procedures that may be available to an aggrieved party under  
11 other provisions of law, including Part 2 (commencing with  
12 Section 43) of Division 1 of the Civil Code.

13 (m) The public notification provisions of this section are  
14 applicable to every person described in this section, without  
15 regard to when his or her crimes were committed or his or her  
16 duty to register pursuant to Section 290 arose, and to every  
17 offense described in this section, regardless of when it was  
18 committed.

19 (n) On or before July 1, 2006, and every year thereafter, the  
20 Department of Justice shall make a report to the Legislature  
21 concerning the operation of this section.

22 (o) A designated law enforcement entity and its employees  
23 shall be immune from liability for good faith conduct under this  
24 section.

25 (p) The Attorney General, in collaboration with local law  
26 enforcement and others knowledgeable about sex offenders, shall  
27 develop strategies to assist members of the public in  
28 understanding and using publicly available information about  
29 registered sex offenders to further public safety. These strategies  
30 may include, but are not limited to, a hotline for community  
31 inquiries, neighborhood and business guidelines for how to  
32 respond to information posted on this Web site, and any other  
33 resource that promotes public education about these offenders.

34 SEC. 1.3. Section 290.46 of the Penal Code is amended to  
35 read:

36 290.46. (a) (1) On or before the dates specified in this  
37 section, the Department of Justice shall make available  
38 information concerning persons who are required to register  
39 pursuant to Section 290 to the public via an Internet Web site as  
40 specified in this section. The department shall update the Internet

1 Web site on an ongoing basis. All information identifying the  
2 victim by name, birth date, address, or relationship to the  
3 registrant shall be excluded from the Internet Web site. The name  
4 or address of the person's employer and the listed person's  
5 criminal history other than the specific crimes for which the  
6 person is required to register shall not be included on the Internet  
7 Web site. The Internet Web site shall be translated into languages  
8 other than English as determined by the department.

9 (2) (A) On or before July 1, 2010, the Department of Justice  
10 shall make available to the public, via an Internet Web site as  
11 specified in this section, as to any person described in  
12 subdivisions (b), (c), or (d), the following information:

13 (i) The year of conviction of his or her most recent offense  
14 requiring registration pursuant to Section 290.

15 (ii) The year he or she was released from incarceration for that  
16 offense.

17 (iii) Whether he or she was subsequently incarcerated for any  
18 other felony, if that fact is reported to the department. If the  
19 department has no information about a subsequent incarceration  
20 for any felony, that fact shall be noted on the Internet Web site.

21 However, no year of conviction shall be made available to the  
22 public unless the department also is able to make available the  
23 corresponding year of release of incarceration for that offense,  
24 and the required notation regarding any subsequent felony.

25 (B) (i) Any state—~~or local~~ facility that releases from  
26 incarceration a person who was incarcerated because of a crime  
27 for which he or she is required to register as a sex offender  
28 pursuant to Section 290 shall, within 30 days of release, provide  
29 the year of conviction and year of release for his or her most  
30 recent offense requiring registration to the Department of Justice  
31 in a manner and format approved by the department, *if that*  
32 *information is readily accessible to the facility.*

33 (ii) Any state—~~or local~~ facility that releases a person who is  
34 required to register pursuant to Section 290 from incarceration  
35 whose incarceration was for a felony committed subsequently to  
36 the offense for which he or she is required to register shall,  
37 within 30 days of release, advise the Department of Justice of  
38 that fact, *if that information is readily accessible to the facility.*

39 (iii) Any state—~~or local~~ facility that, prior to January 1, 2007,  
40 released from incarceration a person who was incarcerated

1 because of a crime for which he or she is required to register as a  
2 sex offender pursuant to Section 290 shall provide the year of  
3 conviction and year of release for his or her most recent offense  
4 requiring registration to the Department of Justice in a manner  
5 and format approved by the department, *if that information is*  
6 *readily accessible to the facility. The information provided by the*  
7 *Department of Corrections and Rehabilitation shall be limited to*  
8 *information that is currently maintained in an electronic format.*  
9 *If the information is not currently maintained in an electronic*  
10 *format, there shall be a notation that the event occurred prior to*  
11 *1978.*

12 (iv) Any state-~~or local~~ facility that, prior to January 1, 2007,  
13 released a person who is required to register pursuant to Section  
14 290 from incarceration whose incarceration was for a felony  
15 committed subsequently to the offense for which he or she is  
16 required to register shall advise the Department of Justice of that  
17 fact in a manner and format approved by the department, *if that*  
18 *information is readily accessible to the facility. The information*  
19 *provided by the Department of Corrections and Rehabilitation*  
20 *shall be limited to information that is currently maintained in an*  
21 *electronic format. If the information is not currently maintained*  
22 *in an electronic format, there shall be a notation that the event*  
23 *occurred prior to 1978.*

24 (3) The Department of Mental Health shall provide to the  
25 Department of Justice Sex Offender Tracking Program the names  
26 of all persons committed to its custody pursuant to Article 4  
27 (commencing with Section 6600) of Chapter 2 of Part 2 of  
28 Division 6 of the Welfare and Institutions Code, within 30 days  
29 of commitment, and shall provide the names of all of those  
30 persons released from its custody within five working days of  
31 release.

32 (b) (1) On or before July 1, 2005, with respect to a person  
33 who has been convicted of the commission or the attempted  
34 commission of any of the offenses listed in, or who is described  
35 in, paragraph (2), the Department of Justice shall make available  
36 to the public via the Internet Web site his or her name and known  
37 aliases, a photograph, a physical description, including gender  
38 and race, date of birth, criminal history, prior adjudication as a  
39 sexually violent predator, the address at which the person resides,  
40 and any other information that the Department of Justice deems

1 relevant, but not the information excluded pursuant to  
2 subdivision (a).

3 (2) This subdivision shall apply to the following offenses and  
4 offenders:

5 (A) Section 207 committed with intent to violate Section 261,  
6 286, 288, 288a, or 289.

7 (B) Section 209 committed with intent to violate Section 261,  
8 286, 288, 288a, or 289.

9 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

10 (D) Section 264.1.

11 (E) Section 269.

12 (F) Subdivision (c) or (d) of Section 286.

13 (G) Subdivision (a), (b), or (c) of Section 288, provided that  
14 the offense is a felony.

15 (H) Subdivision (c) or (d) of Section 288a.

16 (I) Section 288.3, provided that the offense is a felony.

17 (J) Section 288.5.

18 (K) Subdivision (a) or (j) of Section 289.

19 (L) Section 288.7.

20 (M) Any person who has ever been adjudicated a sexually  
21 violent predator as defined in Section 6600 of the Welfare and  
22 Institutions Code.

23 (c) (1) On or before July 1, 2005, with respect to a person  
24 who has been convicted of the commission or the attempted  
25 commission of any of the offenses listed in paragraph (2), the  
26 Department of Justice shall make available to the public via the  
27 Internet Web site his or her name and known aliases, a  
28 photograph, a physical description, including gender and race,  
29 date of birth, criminal history, the community of residence and  
30 ZIP Code in which the person resides or the county in which the  
31 person is registered as a transient, and any other information that  
32 the Department of Justice deems relevant, but not the information  
33 excluded pursuant to subdivision (a). On or before July 1, 2006,  
34 the Department of Justice shall determine whether any person  
35 convicted of an offense listed in paragraph (2) also has one or  
36 more prior or subsequent convictions of an offense listed in  
37 paragraph (2) of subdivision (a) of Section 290, and, for those  
38 persons, the Department of Justice shall make available to the  
39 public via the Internet Web site the address at which the person  
40 resides. However, the address at which the person resides shall

1 not be disclosed until a determination is made that the person is,  
2 by virtue of his or her additional prior or subsequent conviction  
3 of an offense listed in paragraph (2) of subdivision (a) of Section  
4 290, subject to this subdivision.

5 (2) This subdivision shall apply to the following offenses:

6 (A) Section 220, except assault to commit mayhem.

7 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

8 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
9 (i), of Section 286.

10 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or  
11 (i), of Section 288a.

12 (E) Subdivision (b), (d), (e), or (i) of Section 289.

13 (d) (1) On or before July 1, 2005, with respect to a person  
14 who has been convicted of the commission or the attempted  
15 commission of any of the offenses listed in, or who is described  
16 in, this subdivision, the Department of Justice shall make  
17 available to the public via the Internet Web site his or her name  
18 and known aliases, a photograph, a physical description,  
19 including gender and race, date of birth, criminal history, the  
20 community of residence and ZIP Code in which the person  
21 resides or the county in which the person is registered as a  
22 transient, and any other information that the Department of  
23 Justice deems relevant, but not the information excluded pursuant  
24 to subdivision (a) or the address at which the person resides.

25 (2) This subdivision shall apply to the following offenses and  
26 offenders:

27 (A) Subdivision (a) of Section 243.4, provided that the offense  
28 is a felony.

29 (B) Section 266, provided that the offense is a felony.

30 (C) Section 266c, provided that the offense is a felony.

31 (D) Section 266j.

32 (E) Section 267.

33 (F) Subdivision (c) of Section 288, provided that the offense is  
34 a misdemeanor.

35 (G) Section 288.3, provided that the offense is a misdemeanor.

36 (H) Section 626.81.

37 (I) Section 647.6.

38 (J) Section 653c.

39 (K) Any person required to register pursuant to Section 290  
40 based upon an out-of-state conviction, unless that person is

1 excluded from the Internet Web site pursuant to subdivision (e).  
2 However, if the Department of Justice has determined that the  
3 out-of-state crime, if committed or attempted in this state, would  
4 have been punishable in this state as a crime described in  
5 subparagraph (A) of paragraph (2) of subdivision (a) of Section  
6 290, the person shall be placed on the Internet Web site as  
7 provided in subdivision (b) or (c), as applicable to the crime.

8 (e) (1) If a person has been convicted of the commission or  
9 the attempted commission of any of the offenses listed in this  
10 subdivision, and he or she has been convicted of no other offense  
11 listed in subdivision (b), (c), or (d) other than those listed in this  
12 subdivision, that person may file an application with the  
13 Department of Justice, on a form approved by the department, for  
14 exclusion from the Internet Web site. If the department  
15 determines that the person meets the requirements of this  
16 subdivision, the department shall grant the exclusion and no  
17 information concerning the person shall be made available via  
18 the Internet Web site described in this section. He or she bears  
19 the burden of proving the facts that make him or her eligible for  
20 exclusion from the Internet Web site. However, a person who has  
21 filed for or been granted an exclusion from the Internet Web site  
22 is not relieved of his or her duty to register as a sex offender  
23 pursuant to Section 290 nor from any otherwise applicable  
24 provision of law.

25 (2) This subdivision shall apply to the following offenses:

26 (A) A felony violation of subdivision (a) of Section 243.4.

27 (B) Section 647.6, if the offense is a misdemeanor.

28 (C) (i) An offense for which the offender successfully  
29 completed probation, provided that the offender submits to the  
30 department a certified copy of a probation report, presentencing  
31 report, report prepared pursuant to Section 288.1, or other official  
32 court document that clearly demonstrates that the  
33 offender was the victim's parent, stepparent, sibling, or  
34 grandparent

35 and that the crime did not involve either oral copulation or  
36 penetration of the vagina or rectum of either the victim or the  
37 offender by the penis of the other or by any foreign object.

38 (ii) An offense for which the offender is on probation at the  
39 time of his or her application, provided that the offender submits  
40 to the department a certified copy of a probation report,



1 presentencing report, report prepared pursuant to Section 288.1,  
2 or other official court document that clearly demonstrates that the  
3 offender was the victim's parent, stepparent, sibling, or  
4 grandparent and that the crime did not involve either oral  
5 copulation or penetration of the vagina or rectum of either the  
6 victim or the offender by the penis of the other or by any foreign  
7 object.

8 (iii) If, subsequent to his or her application, the offender  
9 commits a violation of probation resulting in his or her  
10 incarceration in county jail or state prison, his or her exclusion,  
11 or application for exclusion, from the Internet Web site shall be  
12 terminated.

13 (iv) For the purposes of this subparagraph, "successfully  
14 completed probation" means that during the period of probation  
15 the offender neither received additional county jail or state prison  
16 time for a violation of probation nor was convicted of another  
17 offense resulting in a sentence to county jail or state prison.

18 (3) If the department determines that a person who was  
19 granted an exclusion under a former version of this subdivision  
20 would not qualify for an exclusion under the current version of  
21 this subdivision, the department shall rescind the exclusion, make  
22 a reasonable effort to provide notification to the person that the  
23 exclusion has been rescinded, and, no sooner than 30 days after  
24 notification is attempted, make information about the offender  
25 available to the public on the Internet Web site as provided in  
26 this section.

27 (4) Effective January 1, 2012, no person shall be excluded  
28 pursuant to this subdivision unless the offender has submitted to  
29 the department documentation sufficient for the department to  
30 determine that he or she has a SARATSO risk level of low or  
31 moderate-low.

32 (f) The Department of Justice shall make a reasonable effort to  
33 provide notification to persons who have been convicted of the  
34 commission or attempted commission of an offense specified in  
35 subdivision (b), (c), or (d), that on or before July 1, 2005, the  
36 department is required to make information about specified sex  
37 offenders available to the public via an Internet Web site as  
38 specified in this section. The Department of Justice shall also  
39 make a reasonable effort to provide notice that some offenders  
40 are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than fifty thousand dollars (\$50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this

1 section shall be punished by a fine not exceeding one thousand  
2 dollars (\$1,000), imprisonment in a county jail for a period not to  
3 exceed six months, or by both that fine and imprisonment.

4 (I) (1) A person is authorized to use information disclosed  
5 pursuant to this section only to protect a person at risk. This  
6 authorization does not create a duty to use the information.

7 (2) Except as authorized under paragraph (1) or any other  
8 provision of law, use of any information that is disclosed  
9 pursuant to this section for purposes relating to any of the  
10 following is prohibited:

11 (A) Health insurance.

12 (B) Insurance.

13 (C) Loans.

14 (D) Credit.

15 (E) Employment.

16 (F) Education, scholarships, or fellowships.

17 (G) Housing or accommodations.

18 (H) Benefits, privileges, or services provided by any business  
19 establishment.

20 (3) This section shall not affect authorized access to, or use of,  
21 information pursuant to, among other provisions, Sections 11105  
22 and 11105.3, Section 8808 of the Family Code, Sections 777.5  
23 and 14409.2 of the Financial Code, Sections 1522.01 and  
24 1596.871 of the Health and Safety Code, and Section 432.7 of  
25 the Labor Code.

26 (4) (A) Any use of information disclosed pursuant to this  
27 section for purposes other than those provided by paragraph (1)  
28 or in violation of paragraph (2) shall make the user liable for the  
29 actual damages, and any amount that may be determined by a  
30 jury or a court sitting without a jury, not exceeding three times  
31 the amount of actual damage, and not less than two hundred fifty  
32 dollars (\$250), and attorney's fees, exemplary damages, or a civil  
33 penalty not exceeding twenty-five thousand dollars (\$25,000).

34 (B) Whenever there is reasonable cause to believe that any  
35 person or group of persons is engaged in a pattern or practice of  
36 misuse of the information available via an Internet Web site  
37 established pursuant to this section in violation of paragraph (2),  
38 the Attorney General, any district attorney, or city attorney, or  
39 any person aggrieved by the misuse is authorized to bring a civil  
40 action in the appropriate court requesting preventive relief,

1 including an application for a permanent or temporary injunction,  
2 restraining order, or other order against the person or group of  
3 persons responsible for the pattern or practice of misuse. The  
4 foregoing remedies shall be independent of any other remedies or  
5 procedures that may be available to an aggrieved party under  
6 other provisions of law, including Part 2 (commencing with  
7 Section 43) of Division 1 of the Civil Code.

8 (m) The public notification provisions of this section are  
9 applicable to every person described in this section, without  
10 regard to when his or her crimes were committed or his or her  
11 duty to register pursuant to Section 290 arose, and to every  
12 offense described in this section, regardless of when it was  
13 committed.

14 (n) On or before July 1, 2006, and every year thereafter, the  
15 Department of Justice shall make a report to the Legislature  
16 concerning the operation of this section.

17 (o) A designated law enforcement entity and its employees  
18 shall be immune from liability for good faith conduct under this  
19 section.

20 (p) The Attorney General, in collaboration with local law  
21 enforcement and others knowledgeable about sex offenders, shall  
22 develop strategies to assist members of the public in  
23 understanding and using publicly available information about  
24 registered sex offenders to further public safety. These strategies  
25 may include, but are not limited to, a hotline for community  
26 inquiries, neighborhood and business guidelines for how to  
27 respond to information posted on this Web site, and any other  
28 resource that promotes public education about these offenders.

29 SEC. 2. (a) Section 1.1 of this bill incorporates amendments  
30 to Section 290.46 of the Penal Code proposed by both this bill  
31 and AB 2712. It shall only become operative if (1) both bills are  
32 enacted and become effective on or before January 1, 2007, *but*  
33 *this bill becomes operative first*, (2) each bill amends Section  
34 290.46 of the Penal Code, and (3) SB 1128 is not enacted or as  
35 enacted does not amend that section, and (4) this bill is enacted  
36 after AB 2712, in which case *Section 290.46 of the Penal Code,*  
37 *as amended by Section 1 of this bill, shall remain operative only*  
38 *until the operative date of AB 2712, at which time Section 1.1 of*  
39 *this bill shall become operative and Sections ~~1, 1.2,~~ 1.2 and 1.3*  
40 *of this bill shall not become operative.*

(b) Section 1.2 of this bill incorporates amendments to Section 290.46 of the Penal Code proposed by both this bill and SB 1128. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 290.46 of the Penal Code, (3) AB 2712 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1128 in which case Section 290.46 of the Penal Code as amended by SB 1128, shall remain operative only until the operative date of this bill, at which time Section 1.2 of this bill shall become operative, and Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 290.46 of the Penal Code proposed by this bill, AB 2712, and SB 1128. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2007, (2) all three bills amend Section 290.46 of the Penal Code, and (3) this bill is enacted after AB 2712 and SB 1128, in which case Section 290.46 of the Penal Code as amended by SB 1128, shall remain operative only until the operative date of this bill, at which time *Section 1.2 of this bill shall become operative and shall remain operative only until the operative date of AB 2712, at which time* Section 1.3 of this bill shall become operative, and Sections ~~1, 1.1, and 1.2~~ *1 and 1.1* of this bill shall not become operative.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 4. This bill shall only become operative if Senate Bill 1128 of the 2005–06 Regular Session is also enacted and becomes effective on or before January 1, 2007.

*SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

*In order to ensure the public safety of California families and their children and to ensure that the Megan’s Law database provides adequate information about registered sex offenders*

- 1 *living in California, it is necessary that this act take effect*
- 2 *immediately.*

O